IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1417 of 2006
Date of decision: 2.4.2007

M/s Penam Laboratories Limited ... Petitioner

Versus

State of Haryana and others ...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE AJAI LAMBA

Present: Mr. Shailender Jain, Advocate,
for the petitioners.

Mr. RS Kundu, Additional Advocate General,
Haryana and Mr. Ashish Kapoor, Additional Advocate General, Haryana.

Mr. AK Pathania, Advocate, for
HSIIDC.

K.S.GAREWAL, J.

This order shall dispose of two connected writ petitions filed by M/s Penam Laboratories Limited (CWP 1417 of 2006) and M/s Sarvpriya Industries Limited and others (CWP 18005 of 2005). The lands owned by the two petitioners were notified for acquisition under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as **the Act**) dated January 29,

2003, followed by the declaration under Section 6 of the Act issued on January 28, 2004.

The petitioners have challenged the acquisition on the grounds that they were both companies incorporated under the Companies Act, 1956. M/s Penam Laboratories Limited was engaged in manufacturing bulk drugs under the category “Life Saving Beta Lactum group of Antibiotics”. The main unit of the petitioner-company was at Joniawas, Dharuhera, Rewari and had been functioning since 1991. The land which was subject matter of the present petition was about 30 kanals 1 marla in Narsingpur, purchased by the petitioner for Rs. 1.25 crores. Due to recession of the market, the petitioner-company became sick and was declared a sick industrial company by the Board for Industrial and Financial Reconstruction (BIFR) on March 26, 2002. However, the company was on the path of rehabilitation. The petitioner is relying on the Industrial Infrastructure Development Policy of the Government of Haryana Annexure P/25 but he is aggrieved by the acquisition of the afore-mentioned 30 kanals and 1 marla which is covered by the notification dated January 29, 2003 issued under Section 4 of the Act.

The property was to be acquired for setting up of an industrial complex to be planned and developed as Special Economic Zone, Phase-I. The petitioner company was unable to file objections under Section 5-A of the Act because it did not come to know about the publication of the notifications. It has been pleaded that the petitioner's land in Narsingpur is in the middle of number of industrial buildings, therefore, if public notice was issued through proclamation carried out at one place, it may not be known to the others located at other places.

Declaration under Section 6 of the Act was issued on January 28, 2004. The petitioner contends that the petitioner's property is sandwiched between the running industrial units and is surrounded by M/s Sarvpriya Industries Limited (petitioner in CWP 18005 of 2005). Reliance was placed on the photographs of the petitioner's land. It has been contended that the lands belonging to many industrial units like M/s Oriental Structural Engineers Pvt. Ltd., M/s Bindal Tube and Capillaries Pvt. Ltd., M/s Shibumi Accessories Pvt.Ltd., M/s HC & PS Enterprises, M/s Amtek Auto Limited etc. have been released from acquisition. Counsel has also relied upon the report of the Committee where property of Sarvpriya Industries Ltd. at No. 6 was discussed by the Committee. The remarks of the Committee were as under:-

> "It was observed that when the earlier Committee visited the site there was no construction on Khasra No. 3,4,8 and 13. During the visit of second Committee construction has been completed on these No. The Committee recommends the release of Khasra Numbers 3, 4, 8, 13 and acquisition of Khasra Numbers 1 /2/2, 9, 10, 11, 12, 20 and 21 of Rectangle Number 4."

The above remarks relates to the case of Sarvpriya Industries-petitioner in CWP 18005 of 2005. Therefore, no separate consideration was done in the petitioner's case. This was because when Sarvpriya Industries filed objections under Section 5-A of the Act, it included khasra Nos. of the land claimed by the petitioner's as well. Therefore, in a sense the petitioner's case was considered alongwith the case of Sarvpriya Industries, when the above mentioned order was passed.

We may briefly describe the claim of Sarvpriya Industries. The petitioners claim to be owner of 94 kanals 10 marlas. The Company was engaged in manufacturing of auto seats, seat parts covers and auto trims etc. and is original equipment supplier to Maruti Udyog Limited and it was a company registered under the Companies Act, 1956. The land of the petitioners was also covered by the notification under Section 4 dated January 29, 2003 and declaration under Section 6 of the Act dated January 28, 2004.

This Bench in the case of Chattar Singh and others Versus The State of Haryana and others, Civil Writ Petition No. 20139 of 2004 decided on April 2, 2007 had considered the public purpose stated in the notifications under Sections 4 and 6 of the Act for the purpose of setting up of an industrial complex to be planned and developed as Special Economic Zone Phase-I. Industrial Infrastructure Development Policy was also taken into account. Guidelines for release of land by the Committee were noted and it was held that "the mode and manner in which the Committee had determined whether a particular parcel of land where some industrial activity was taking place should be released or not shows that the Committee was extremely fair, just and impartial in considering claims of parties for release of land from acquisition. The Committee had been given detailed guidelines which have been mentioned above. The Committee adhered to these guidelines and did not hesitate from releasing property from acquisition if the case fell within the parameters laid down. The report of the Committee shows that a number of properties were released. Therefore, when a particular property was not released from acquisition it must have been because the cases were not covered by the guidelines. The

decision of the Committee in respect of the petitioners' has been given above. Since the petitioners' case was not covered by the guidelines, it was not recommended for release. We are not inclined to interfere with the decision of the expert body."

We find that both in the cases of M/s Penam Laboratories Limited and M/s Sarvpriya Industries Limited, the Committee had come to the correct conclusion and we cannot interfere in the decision of the expert body.

Consequently, both the petitions are dismissed.

(K.S. GAREWAL)
JUDGE

2.4.2007 **(AJAI LAMBA)**
prem **JUDGE**